

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MIGUEL GARCIA JR.,

Petitioner,

v.

S. SCHUYLER,

Respondent.

No. 1:25-cv-00251 JLT SAB (HC)

**ORDER DECLINING TO ISSUE
CERTIFICATE OF APPEALABILITY**

Petitioner is a state prisoner proceeding *pro se* whose petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254, was dismissed on June 12, 2025. (Doc. 16.) Petitioner filed a notice of appeal, and on July 3, 2025, the Ninth Circuit remanded the case to this Court for the limited purpose of granting or denying a certificate of appealability. (Doc. 18.)

A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28 U.S.C. § 2253. Where, as here, the Court denies habeas relief on procedural grounds without reaching the underlying constitutional claims, the Court should issue a certificate of appealability "if jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). "Where a plain procedural bar is present and the

1 district court is correct to invoke it to dispose of the case, a reasonable jurist could not conclude
2 either that the district court erred in dismissing the petition or that the petitioner should be
3 allowed to proceed further.” *Id.*

4 In the petition, Petitioner challenges his 2005 Fresno County Superior Court conviction
5 for first-degree murder. (Doc. 1.) Petitioner previously filed a federal habeas petition in this Court
6 challenging the same conviction, and that petition was denied on the merits. *See Order, Garcia v.*
7 *Horel*, No. 1:07-cv-01105-VRW (E.D. Cal. Nov. 9, 2009), Doc. 49.¹ Accordingly, the Court finds
8 that reasonable jurists would not find the Court’s determination that the petition should be
9 dismissed as successive debatable or wrong, or that Petitioner should be allowed to proceed
10 further.

11 Based on the foregoing, the Court hereby DECLINES to issue a certificate of
12 appealability. The Clerk of the Court is DIRECTED to serve a copy of this order on the Ninth
13 Circuit Court of Appeals.

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15 IT IS SO ORDERED.

16 Dated: July 7, 2025


UNITED STATES DISTRICT JUDGE

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¹ The Court may take judicial notice of its own records in other cases. *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).